



**Public Hearing Written Testimony of
Dennis C. Murphy, Acting Commissioner**

**Labor and Public Employees Committee
February 24, 2011**

Good Afternoon Senator Prague, Representative Zalaski and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with written testimony regarding **House Bill #6406 AAC Employer's Responsibilities and Employee Rights**. My name is Dennis C. Murphy and I am the Acting Commissioner of the Department of Labor. Thank you for the opportunity to address certain concerns of my Agency regarding this bill.

The bill requires employers to provide notice to its "employees" upon hire of their "entitlements and benefits," which are defined as "paid sick leave, maternity leave, vacation time, medical coverage, prescription drug coverage, dental coverage, vision coverage, employee discounts, family and medical leave, and worker's compensation benefit." "Employee" is defined in part as "any person . . . who has worked a minimum of five hundred and twenty hours for an employer within the past twelve months".

An employee by definition in this bill is not a new hire. The definition of "employee", in and of itself, seems to undermine the intent to require notice when the employee is hired. If an employee must have worked for 520 hours, then, at hire, he or she is not considered an "employee".

The bill further provides that retaliation or discrimination against employees for requesting to use or using their entitlement and benefits or filing a complaint with the Labor Commissioner is prohibited. An employee may file a complaint with the Labor Commissioner if the employer fails to properly notice the entitlement and benefits or if it retaliates or discriminates against the employee. An employer found by the Labor Commissioner "by a preponderance of the evidence" to have violated the statute shall be fined a civil penalty of \$600 per violation. The Labor Commissioner may also award the aggrieved employee all appropriate relief, including reinstatement, back wages and reestablishment of benefits.

The bill provides a right of action only to employees who have worked a minimum of five hundred and twenty (520) hours in the preceding twelve months; however, the Bill does not indicate when the twelve month look back begins, i.e., on the date the employee seeks to use or uses his or her entitlements and benefits, when the employee has been subjected to a retaliatory or discriminatory adverse action, or when the employee files a complaint with the Department. This language would also exclude an employee from filing a complaint for an employer's failure to provide proper notice of entitlements and benefits until the employee has worked 520 hours, because he or she is not an employee under the definition of the bill. In

addition, an employee who is retaliated or discriminated against before meeting the 520 hours threshold would also be denied a right of action.

If an employee files a complaint with the Department alleging a violation of the bill, the Labor Commissioner is to determine if a violation occurred. The bill requires that the Labor Commissioner base its determination on a "preponderance of the evidence." Therefore, the Department would have to hold an administrative hearing, allowing the parties to present documentary evidence and witness testimony, in order to make such a legal determination. This would impose a substantial burden on the Department, such that it may need additional staff, which may include an attorney. Additionally, the bill does not provide a statute of limitations for filing such claims, so it is unclear how long an aggrieved party would have to file a complaint.

Finally, it appears that the bill is somewhat duplicative of C.G.S. § 31-71f, which requires employers to furnish information to employees related to rate of pay, hours, employment practices and policies, regarding wages, vacation pay, sick leave, health and welfare benefits and "comparable matters."

Thank you for the opportunity to provide this testimony. Please feel free to contact me or my staff if you need additional information.